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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 10/667,243 | 09/18/2003 | Brad I. Procton | E040-1010RE (38864.0009.7) | 2910 |
| 26158 | 7590 | 04/28/2005 | EXAMINER | |
| REDMAN, JERRY E | | | | |
| WOMBLE CARLYLE SANDRIDGE & RICE, PLLC P.O. BOX 7037 ATLANTA, GA 30357-0037 | | | ART UNIT | PAPER NUMBER |

3634

DATE MAILED: 04/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,243

Applicant(s)

PROCTON ET AL.

Examiner

Jerry Redman

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9 and 17 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 10-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3634

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Eagle ('830). Eagle ('830) discloses a threshold assembly (1) positioned along a floor of an entryway comprising an elongated aluminum body (4) having opposed ends and integrally formed to define an upwardly projecting and longitudinally extending threshold portion (14, 8, and 24) with an upper surface (24) of the threshold portion aligned with and underlying a closed door of the entryway, an exterior sill (13, left side) extending outwardly and sloping downwardly from the threshold portion (14, 8, and 24), an interior sill portion (13, the right side) extending inwardly and sloping downwardly from the threshold portion (14, 8, and 24) to an interior edge of the body (4), and said threshold portion (14, 8, and 24) projecting upwardly a predetermined distance from the interior and exterior sills to form a first and second dam (25) along the junction of the threshold portion (14, 8, and 24) forming a barrier against migration of water from the sills past the threshold portion (14, 8, and 24).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.


Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eagle in view of Procton ('766). All of the elements of the instant invention are discussed in detail above except providing a thermal break. Procton ('766) discloses a threshold assembly having a thermal break (23). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the threshold assembly of Eagle with a thermal break as taught by Procton ('766) since a thermal break decreases the amount of heat transfer from one side of a door opening to an opposite side via the threshold.

Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eagle in view of McGough et al. All of the elements of the instant invention are discussed in detail above except providing a side light cap. McGough et al. disclose a threshold assembly having a portion of the threshold under a fixed panel with a side light cap (70) formed between the fixed panel and the threshold assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the threshold assembly of Eagle with a fixed panel and side light cap as taught by McGough et al. since this would expand the opening and look of an entryway and allow sealing capabilities between the fixed panel and the threshold assembly.

Claims 5-8 and 10-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. patent to Coe discloses a threshold assembly having sloping surfaces similar to that of the applicant's invention. U.S. patent to Daniels disclose a threshold assembly having sloping surfaces similar to that of the applicant's invention. U.S. patent to Hunter discloses a threshold assembly having sloping surfaces similar to that of the applicant's invention. As shown in Figure 7, U.S. patent to Massey et al. disclose a threshold assembly having sloping surfaces similar to that of the applicant's invention. U.S. patent to Corbo discloses a dam (54) portion and a threshold assembly having sloping surfaces similar to that of the applicant's invention. U.S. patent to Klemma discloses a dam portion (30 and 31) and a threshold assembly having sloping surfaces similar to that of the applicant's invention.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman
Primary Examiner